

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

VG Enterprises, S.A.,

Plaintiff,

V.

Dawa Line Co., Ltd.,

Defendant,

and

Ameropa Coal Trading and Shipping Inc.

Ameropa Handels A.G.

Ameropa Inc.

COFCO Americas Resources Corp.

COFCO Growmark LLC

COFCO International Grains US LLC

Daewoo International Group LLC

Daelim America, Inc.

Daelim Chemical USA, Inc.

Daelim Chemical USA LLC

Glencore Ltd.

Glencore Trading Inc.

Garnishees.

**VERIFIED COMPLAINT WITH REQUEST FOR ISSUE OF
PROCESS OF MARITIME ATTACHMENT AND GARNISHMENT**

VG Enterprises, S.A. (“VGE”) brings this action against Dawa Line Co., Ltd., (“Dawa Line”) *quasi in rem* pursuant to Supplemental Rule B for Certain Admiralty and Maritime Claims, requesting the issue of writs of maritime attachment and garnishment, including against Garnishees and states as follows:

Jurisdiction and Venue

1. This is an action within this Court’s admiralty jurisdiction pursuant to 28 U.S.C. § 1333 and is an admiralty or maritime claim within Fed. R. Civ. P. 9(h). VGE further brings this action pursuant to 9 U.S.C. §§ 1, 8 for security for arbitration which VGE has initiated against

Dawa Line in London pursuant to a vessel charter party between VGE and Dawa Line as more fully detailed below.

2. Venue is proper in this District because the Garnishees are within the meaning of Supplemental Rule B located, can be found, and/or can be served with process in this District.

3. Venue is also proper in this District because Dawa Line's property is or soon will be in this District, namely, accounts payable from Garnishees to Dawa Line.

4. Dawa Line cannot be found in this District within the meaning of Supplemental Rule B.

The Parties

5. VGE is a Marshall Islands corporation, Dawa Line is a Korean corporation. VGE is owner of the vessel M/V GEORGE, IMO 9650810 ("Vessel"), which as VGE sets out herein, was chartered to Dawa Line.

6. Garnishees each are entities with offices or agents located in this District which, on information and belief as detailed below, VGE as detailed herein reasonably believes hold accounts which are the property of and/or owing to Dawa Line.

Facts

7. VGE, under a time charter dated 5 November, 2021 ("Charterparty"), time-chartered the Vessel to Dawa Line, which in turn sub-chartered to E-Star Shipping & Trading Company ("Sub Charterers"). The VGE-Dawa Line Charterparty began at Shanghai and was for a one-time charter trip duration about 60-70 days without guarantee. Dawa Line's payment under the Charterparty to VGE was not contingency or dependent upon Sub Charterers' payment to Dawa Line.

8. Dawa Line and Sub Charterers sailed the Vessel with cargo from Shanghai to Phuket, Thailand. Dawa Line by this time, however, was substantially in arrears to VGE under

the terms of the Charterparty. VGE consequently exercised its right under the Charterparty to recover the freights due for carriage to Phuket, and received approximately \$600,000 which it applied against the outstanding amounts per the Charterparty, due from Dawa Line.

9. The Vessel remained under charter to Dawa Line until its return April 5, 2022 at Nemrut Bay, Turkey. At the conclusion of the Charterparty, Dawa Line owed VGE, as of May 6, 2022, \$2,447,479.26 for unpaid charter hire, canal dues and other items due under the Charterparty.

10. English law controls the Charterparty. VGE has initiated arbitration in London per the Charterparty terms.

11. Dawa Line has admitted its breach of the Charterparty.

Specific Allegations - Garnishees

12. In order to induce VGE to charter the Vessel to Dawa Line, Dawa Line provided VGE with a document in which it listed its “Main Charterers,” meaning, the customers with which Dawa Line regularly does business. This list of “Main Charterers” provided by Dawa Line to VGE lists each Garnishee or the Garnishee’s affiliate or subsidiary which, by information and believe, does business as charterer from Dawa Line.

Count I – Breach of Contract – Security for Arbitration

13. VGE repeats the foregoing paragraphs.

14. Dawa Line has breached its maritime contract with VGE. VGE has initiated London arbitration as the Charterparty provides, and demands security for that arbitration pursuant to the U.S. Federal Arbitration Act, as demanded below.

Count II – Maritime Attachment and Garnishment (Rule B)

15. VGE incorporates the above paragraphs as if fully set forth herein.

16. VGE seeks issue of process of maritime attachment so that it may obtain

security for its claims in arbitration, including its contractual attorneys' fees and costs.

17. No security for VGE's claims has been posted by Dawa Line or anyone acting on its behalf.

28. Dawa Line cannot be found within this district within the meaning of Rule B, but is believed to have, or will have during the pendency of this action, property and/or assets in this jurisdiction because of the presence of each Garnishee in this District, namely, accounts owed Dawa Line by garnishees, as specified for each Garnishee, *supra*.

Prayer for Relief

WHEREFORE, VGE prays:

A. That in response to Count I, process of maritime attachment be issued to garnish and attach property of Dawa Line, including but not limited to, accounts payable owed or to be owed from garnishees to Dawa Line in the amount of at least **\$2,947,479.26** (\$2,447,479.26 for breach of the Charter Party as detailed above, plus a further amount for accrued and accruing interest, costs and attorneys' and arbitrators' fees of at least USD \$500,000 in security of VGE's claims asserted or to be asserted by VGE against Dawa Line in London Arbitration) upon that total amount being garnished and attached, this action to be stayed and the amount to await final award in arbitration and judgment entered on such award by this Court;

B. That in response to Count II since Dawa Line cannot be found within this District pursuant to Supplemental Rule B, this Court issue an Order directing the Clerk to issue Process of Maritime Attachment and Garnishment pursuant to Rule B attaching all of Dawa Line's tangible or intangible property or any other funds held by any garnishee, up to the amount of at least the amount demanded herein to secure VGE's claims, and that all persons claiming any interest in the same be cited to appear and, pursuant to Supplemental Rule B, answer the matters alleged in this Verified Complaint;

C. That as provided in Supplemental Rule B, that such person over 18 years of age be appointed as moved for herein pursuant to Supplemental Rule B and Fed. R. Civ. P. 4(c) to serve process of Maritime Attachment and Garnishment in this action; and

D. That this Court award VGE such other and further relief that this Court deems just and proper.

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Attorneys for VG Enterprises, S.A.

Dated: August 29, 2022.

VERIFICATION

I am a Principal of the law firm Simms Showers LLP, of counsel to VGE.

The facts alleged in the foregoing complaint are true and correct to the best of my knowledge and information based upon the records of VGE made available to me by VGE. VGE's authorized officers are not readily available in this District to make verifications on VGE's behalf. I am authorized to make this verification on VGE's behalf.

I further certify that, pursuant to Supplemental Rule B, I caused a search to be made of electronic records and Directory Assistance for addresses and telephone numbers in this District. There is no record of any general or resident agent authorized to accept service of process for defendant Dawa Line in this District.

Pursuant to 28 U.S.C. § 1746(1), I solemnly declare under penalty of perjury that the foregoing is true and correct.

Executed on August 29, 2022.

/s/ J. Stephen Simms
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